

**United States Department of the Interior
U.S. Fish and Wildlife Service
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AESO/FA
22410-2006-FA-0021

May 4, 2006

Ms. Cindy Lester
Chief, Regulatory Branch
U.S. Army Corps of Engineers
3636 North Central Avenue, Suite 900
Phoenix, Arizona 85012-1936

Dear Ms. Lester:

Thank you for the April 5, 2006, Public Notice 2006-00346-RWF (PN), issued by the U.S. Army Corps of Engineers, regarding CSW Sun Valley South Holdings, LLC, application for a Section 404 Clean Water Act (CWA) permit to construct the 1,800-acre Mirielle master-planned community in the Town of Buckeye, Maricopa County, Arizona (Sections 5-8, T2N, R4W). These comments are provided under the authority of and in accordance with the Fish and Wildlife Coordination Act (48 Stat. 401, as amended U.S.C. 661 et. seq.) (FWCA), but do not constitute our final review.

The proposed project area is located in the Hassayampa River valley in the southwest bajadas of the White Tank Mountains. The project area is characterized by Sonoran desertscrub with a variety of native plant and wildlife species. The location of the project area in relation to the Hassayampa River and the White Tank Mountains increases its importance to native wildlife as foraging, breeding, and dispersal habitat. The Hassayampa River, in particular, provides habitat for rare native fish and is important in the recovery of the endangered southwestern willow flycatcher (*Empidonax traillii extimus*), while the White Tanks Mountains provides habitat for many native wildlife species including large mammals, such as deer and mountain lion, that require large home ranges.

The proposed project would directly impact 8.75 of 25.1 acres of jurisdictional washes on site, through the discharge of dredged and fill material for construction of building pads, roadway crossings, trail crossings, and utility crossings that are integral to the Mirielle development plan. We recommend that your scope of analysis address the total environmental impact of the 1,800-acre development on terrestrial and aquatic resources, including direct, indirect, secondary, and cumulative effects, both above and below the ordinary high water mark. This is particularly important in a regional context considering several other section 404-permitted or proposed residential activities including Festival Ranch (PN 2000-00966-RWF), Verrado-Whitestone (PN

974-0218-RWF), Sundance (PN 2000-01264), Tartesso West (2002-00844-RWF), Trillium (2003-01009-AP), Elianto (2001-01153-RWF), and Anthem West (2001-01566-RWF). We believe all these projects are functionally similar to Lone Mountain (2000-01928-RWF), for which your agency previously expanded the scope of analysis. Thus, your scope of analysis for Mirielle development should be structured similarly.

The PN states that a preliminary determination has been made that an environmental impact statement is not required for the proposed work in accordance with the National Environmental Policy Act (NEPA). We request that you evaluate this determination in light of the Environmental Protection Agency's previous comments on similar projects such as Festival Ranch and Elianto. Also, we have recently provided comments on environmental assessments for both Lone Mountain and Festival Ranch. We refer you to these comments, posted on our webpage <http://www.fws.gov/arizonaes/>, under Document Library, to guide the development of your NEPA document for the Mirielle project. The PN provides no information regarding proposed mitigation. We recommend using an empirical functional assessment to quantify impacts and guide preparation of a mitigation plan.

In closing, we request the permit be held in abeyance until we have been provided the opportunity to review the draft NEPA document and mitigation plan, and provide comments and recommendations in accordance with the FWCA and Section 404(m) of the CWA. We also encourage you to coordinate the review of this project with the Arizona Game and Fish Department. Thank you for your coordination on this project. If we can be of further assistance please contact Mike Martinez (x224) or Debra Bills (x239).

Sincerely,

/s/ Steven L. Spangle
Field Supervisor

cc: Regional Administrator, Environmental Protection Agency, San Francisco, CA
Supervisor, Project Evaluation Program, Arizona Game and Fish Department, Phoenix, AZ